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Thursday December 13, 2007

Fax: Commissioner Mayes @ 602 542 0765

From: Bruce Brammer

Docket # W-03512A-07-0362

Pine Water Company K-2 Project.

This is in reference to the statement Mr. Hardcastle made under oath yesterday regarding the employment of Mr. Breninger prior to his current present employment, that Mr. Breninger had not been previously employed by Brooke.

Please refer to the attached article (Obtained from the Payson Roundup's web-site) for December 26, 2000 written by Myndi Brogdon (Also currently employed by BUI) and the underlined.

It states that Mr. Breninger, Brooke Utility Spokesperson!

Thank you,

Arizona Corporation Commission  
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## Construction of pipeline reaches halfway point

By Myndi Brogdon, Roundup contributor

Tuesday, December 26, 2000

**Construction of an 8-inch underground pipe** that will stretch from Pine to Strawberry is about halfway done ? and will soon be capable of delivering up to 300,000 gallons of water.

The pipeline, named Project Magnolia, will connect the Pine and Strawberry water systems ? both owned and operated by Brooke Utilities ? allowing the water utility to shift water from one location to another to accommodate demands.

This past summer, 5 million gallons of water were hauled by truck to Pine, Brooke president Bob Hardcastle said. Much of that was taken from the Strawberry system.

Construction of the pipeline has an estimated price tag of \$300,000, said John Breninger, Brooke Utility spokesperson.

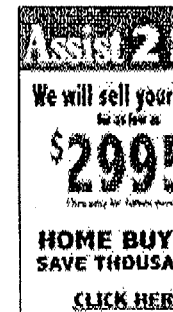
The demand in Pine is greater than the supply, Breninger said. The Pine water system that currently supplies those 1,800 customers produces between 160,000 and 260,000 gallons of water per day. And the trend for that production is dropping, Breninger said.

The more than 1,800 customers of Brooke Utilities in Pine reached Stage 5 ? the most severe restrictions in early May ? and remained there until mid-October when restrictions were reduced to Stage 4. Only this week have the conservation measures been relaxed from 4 to 3 and just this past Thursday to Stage 2.

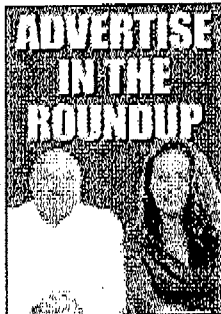
Strawberry's 1,100 customers are connected to a system that produces between 390,000 to 470,000 gallons of water daily.

"Strawberry's water production has reached a plateau and is holding," Breninger said. The pipeline is tied into Strawberry at the 75,000-gallon storage tank located off Parkinson Road, just behind the Strawberry Lodge. The pipeline then basically follows the route of Old County Road. This road closely follows present-day Highway 87 and was the main route for the first settlers who commuted between Pine and Strawberry.

The pipeline actually crosses under the highway in two sections, both of those sections are complete and ready to be connected, Breninger said. The pipeline then connects in Pine at a 300,000-gallon storage tank located at the north end of town on Pinecone Trail.



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The plan for the pipeline is to pump excess water from Strawberry to Pine to ease their water woes, Breninger said. Future plans include building a reservoir to contain the water and then in months with high demand the water can be pulled back into the system.

Weather permitting, the pipeline should be completed by the end of January.



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Thursday December 13, 2007

Fax: Commissioner Mayes @ 602 542 0765

From: Bruce Brammer

Docket # W-03512A-07-0362

Pine Water Company K-2 Project.

Yesterday you asked Staff and PWC to provide you a brief on the Arizona Constitution Par 9 Section 10 regarding the K-2 Agreement.

Please note a previous filing {Bar Code 0000075727} submitted on Aug 6, 2007, a copy of which is attached.

Thank you,

A handwritten signature in black ink, appearing to read "Brammer", is written over the printed name "Bruce Brammer".

ORIGINAL

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Attorneys for Cindy Maack

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## BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION )  
 OF PINE WATER COMPANY FOR )  
 APPROVAL TO (1) ENCUMBER A PART )  
 OF ITS PLANT AND SYSTEM PURSUANT )  
 TO A.R.S. § 40-285(A); AND (2) ISSUE )  
 EVIDENCE TO INDEBTEDNESS )  
 PURSUANT TO A.R.S. § 40-302(A). )

DOCKET NO. W-03512A-07-0362

**OBJECTION TO APPLICATION  
 TO ENCUMBER SYSTEM AND  
 ISSUE EVIDENCE OF  
 INDEBTEDNESS**

Cindy Maack, by and through undersigned counsel, hereby files this objection to the Pine Water Company's Application for Approval to (1) Encumber a Part of its Plant and System Pursuant to A.R.S. § 40-285(A); and (2) Issue Evidence of Indebtedness Pursuant to A.R.S. § 40-285(A).

The Pine Water Company's Application relates to a Joint Well Development Agreement executed by the Pine Water Company and the Pine-Strawberry Water Improvement District dated May 1, 2007 (the "Agreement"). In general terms, the Agreement provides for funding to be issued by the Pine-Strawberry Water Improvement District to the Pine Water Company to facilitate the construction and improvement of a well site in Pine known as the "K-2 Site".

Several portions of the Agreement are of particular relevance for purposes of this objection. The Agreement itself confirms that the Pine Water Company is a public service corporation as defined in Article 15, Section 2 of the Arizona Constitution. (Agreement, p. 1, Recital A; Agreement, p. 11, § 7.2.1.) It estimates that the cost to complete the K-2 well development will range between \$1,000,000.00 and \$1,300,000.00. (Agreement, p. 2, Recital G.) Towards this cost, the Water Improvement District agrees to provide

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1 \$300,000.00 in capital. (Id.) The remaining costs of the project would be funded by the Pine  
2 Water Company. (Id.) The \$300,000.00 of "initial funding" for the project provided by the  
3 Water Improvement District is to be deposited in an escrow account with First American  
4 Title, and said funds are then to be available to Pine Water Company upon presentation of  
5 written statements requesting draws. (Agreement, p. 5, § 4.2.1.1; Agreement, p. 6, § 4.2.1.4.)  
6 The repayment of the funds forwarded by the Pine-Strawberry Water Improvement District is  
7 secured by a "Notice of Continuing Security Interest and Lien" to be recorded against the K-  
8 2 Site. (Agreement, p. 6, § 4.2.1.5.) This Lien is to provide "security for the funds"  
9 provided under the Agreement and the Agreement conveys to the Pine-Strawberry Water  
10 Improvement District all rights and remedies of a secured party under the Arizona Uniform  
11 Commercial Code. (Id.) In the event that the project is a success, the funds forwarded by the  
12 Pine-Strawberry Water Improvement District, plus interest at the rate of six percent per  
13 annum, are to be repaid by the Pine Water Company. (Agreement, p. 7, § 4.2.2.) The  
14 Agreement allows the Pine Water Company to prepay without penalty and provides that all  
15 payments made will be applied first to interest, then to principal. (Id.) In sum, the funds  
16 provided by the Pine-Strawberry Water Improvement District under the Agreement amount  
17 to a secured loan designed to assist the Pine Water Company with its proposed development  
18 of the K-2 Site.

19 Article 9, Section 10 of the Arizona Constitution specifically prohibits the  
20 appropriation of public money to aid a public service corporation. It states:

21 "No tax shall be laid or appropriation of public money made in aid of any  
22 church, or private or sectarian school, or any public service corporation."

23 (Ariz. Const., Art. 9, § 10.)

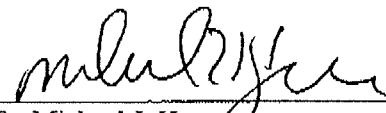
24 It is beyond dispute that the Pine Water Company is a public service corporation.  
25 (Agreement, p. 1, Recital A; Agreement, p. 11, § 7.2.1.) It is also clear that, pursuant to the  
26 Agreement, the Pine-Strawberry Water Improvement District intends to provide funds to  
27 assist the Pine Water Company with its improvement and development of the K-2 Site. The  
28 Pine-Strawberry Water Improvement District is a political subdivision of the State of

1 Arizona created under authority provided under Arizona statute and, of course, is funded  
2 with public monies. As such, the Joint Well Development Agreement violates the Arizona  
3 Constitution because it provides for the appropriation of public money to aid a public service  
4 corporation.

5 Based upon the foregoing, it is respectfully requested that the Corporation  
6 Commission reject the Pine Water Company's Application in this matter.

7 DATED this 2 day of August, 2007.

8  
9 RENSCH WALKER & HARPER, PC

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13 By Michael J. Harper  
14 Attorneys for Cindy Maack  
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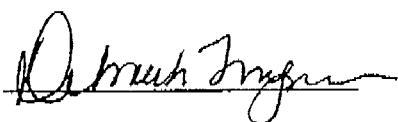
1 Original and 13 copies of the  
2 foregoing mailed this 2 day of  
3 August, 2007 to:

4 Docket Control  
5 Arizona Corporation Commission  
6 1200 W. Washington Street  
7 Phoenix, AZ 85007

8 And copies mailed on  
9 the same date to:

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